

***THE HON'BLE SRI JUSTICE N.V. RAMANA**

+WRIT PETITION NO.11022 OF 2003

%Dated 30.08.2006

**# B.Krishnaiah, s/o.B.Hanumanthaiah, aged 27 years,
Working as Jamedar, Vigilance &Security Office,
T.T.D.,Tirupati,Chittoor District & Ors.**

..... PETITIONERS

VERSUS

**\$ 1. The Principal Secretary to Government, Revenue (Endts-III)
Department, Secretariat, Hyderabad & Ors.**

.....RESPONDENTS

! Counsel for Petitioner : Sri K.Suresh Kumar Reddy

^ Counsel for Respondents: G.P., for Endowments

Sri A.K.Jayaprakash Rao

< GIST:

> HEAD NOTE:

? Cases referred:

1. AIR 1998 SC 1033
2. AIR 1989 SC 139
3. AIR 1992 SC 780
4. AIR 1993 SC 1605
5. AIR 1996 SC 2744
6. AIR 2001 SC 308
7. AIR 2001 SC 595
8. AIR 2002 SC 77
9. (2004) 9 SCC-65

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 11022 of 2003

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Oral order:

The petitioners who are working in Tirumala Tirupati Devasthanam (TTD) as Head Vigilance Guards and Jamedars, have filed this writ petition praying for the following relief:

To issue a writ of mandamus directing respondent No.1 to implement the recommendations made vide Roc. TL5/3933=58/94, dated 18.02.1997 by respondent No.2 and make necessary amendments to T.T.D. Service Rules by including the post of Security Inspector in accordance with the method of recruitment and qualifications as suggested and recommended.

The petitioners state that on the representation made by them to the 2nd respondent, namely the Executive Officer that since they have been working as Head Vigilance Guards and Jamedars for the last more than 15 years, they should be given promotion as Security Inspectors, the 2nd respondent placed the matter before the Board of Trustees of TTD, who passed a resolution on 10.09.1995 approving the proposal for conversion of three posts of Vigilance and Security Inspectors as Security Inspectors, providing for a channel of promotion to Head Vigilance Guards and Jamedars as Security Inspectors. Pursuant to the said resolution, the 2nd respondent addressed a letter dated 18.09.1995, followed by another letter dated 18.02.1997, requesting the 1st respondent, Principal Secretary to the Government in the Revenue Department, to amend the service rules so as to provide promotion channel from the posts of Head Vigilance Guards and Jamedars as Security Inspectors, but till date no action thereon had been taken by the 1st respondent. Hence they filed this writ petition.

The learned counsel for the petitioners the petitioners are working

as Head Vigilance Guards and Jamedars, and as there is no channel of promotion for them, on their request, the Board of Trustees of TTD passed a resolution for converting three posts of Vigilance and Security Inspectors as Security Inspectors, providing for promotion to the post of Security Inspectors from the cadre of Head Vigilance Guards and Jamedars. He submits that though pursuant to the said resolution, the 2nd respondent has addressed two letters, requesting the 1st respondent to amend the service rules providing for a promotion channel from the cadre of Head Vigilance Guards and Jamedars to the post of Security Inspector, the 1st respondent has not taken thereon to amend the service rules, which is illegal and arbitrary. He submits that the petitioners have reached the stagnation level in the posts of Head Vigilance Guards and Jamedars, and if the 1st respondent does not amend the service rules providing for promotion to the post of Security Inspector from the said cadre, the petitioners will be required to work in the posts of Head Vigilance Guards and Jamedars only throughout their entire service, which will not be in the interest of the administration. In support of his various contentions, he placed reliance on the judgments of the apex Court in **Raghunath Pd. Singh v. Secy., Home (Police) Dept., Govt. of Bihar**^[1], **P. & T. S.C./T. Employees' Welfare Assocn v. Union of India**^[2], **Banaras Hindu University, Varanasi v. Indra Pratap Singh**^[3], **Union of India v. N.P. Thomas**^[4], **F.C.I. Ltd. v. Sarat Chandra Rath**^[5], **Kuldeep Kumar Gupta v. H.P.S.E.B.**^[6], **K.R. Lakshman v. Karnataka Electricity Board**^[7] and **V. Jagannadha Rao v. State of A.P.**^[8].

The 1st and 2nd respondents filed separate counters.

The learned Government Pleader for Endowments appearing on

behalf of respondent No.1 reiterating the counter averments submitted that the 1st respondent vide Memo dated 01.01.1998 rejected the proposal of the 2nd respondent as there was no justification for upgradation of the post of Vigilance and Security Inspectors as Security Inspectors, except for promotional avenue, and as such, the question of amending the service rules, providing for promotion to the post of Security Inspectors from the cadre of Head Vigilance Guards and Jamedars, does not arise.

The learned Standing Counsel for respondent No.2 submitted that the petitioners were appointed as Head Vigilance Guards and Jamedars by direct recruitment. There is no promotional channel or promotional avenue to the posts in which the petitioners are working. There are nine posts of Security Inspectors, and as per the service rules framed in G.O. Ms. No. 1060, dated 24.10.1989, the 2nd respondent is filling up the posts of Security Inspectors by way of deputation of services of the personnel from the A.P. Police Service. He submits that since the 1st respondent has rejected the request of the 2nd respondent for conversion of the three posts of Vigilance and Security Inspectors as Security Inspectors, the petitioners cannot seek that the service rules should be amended providing for promotion.

In the background of the pleadings and the arguments advanced by the learned counsel for the petitioners, the learned Government Pleader for respondent No.1 and the learned Standing Counsel for respondent No.2, the only question that arises for consideration in this writ petition is whether the 1st respondent should be directed to amend the service rules, providing for a promotion channel to the post of Security Inspector from the cadre of Head Vigilance Guards and Jamedars, as recommended by the Board of Trustees of TTD in their resolution dated 10.09.1995, for conversion of three posts of Vigilance

and Security Inspectors as Security Inspectors?

The petitioners were appointed as Head Vigilance Guards and Jamedars. Admittedly, no promotional channel is provided from the said posts to the next higher post, and as a result of non-provision of promotional channel, the petitioners, who were appointed as Head Vigilance Guards and Jamedars, are deprived of promotion throughout their service, and will be required to retire from service as Head Vigilance Guards and Jamedars only. As no promotional channel is provided from the posts of Head Vigilance Guards and Jamedars, and since the petitioners were working for more than 15 years as Head Vigilance Guards and Jamedars, they made representation to the 2nd respondent requesting him to promote them as Security Inspectors. The 2nd respondent placed the representation of the petitioners before the Board of Trustees of TTD, who in their resolution dated 10.09.1995 resolved to convert three posts out of the nine posts of Vigilance and Security Inspectors as Security Inspectors. Pursuant to the resolution of the Board of Trustees of TTD, the 2nd respondent addressed a letter dated 17.09.1995, followed by another letter dated 18.02.1997, requesting the 1st respondent to amend the service rules for providing promotion channel from the posts of Head Vigilance Guards and Jamedars to the posts of Security Inspectors.

Though the petitioners contend that despite the recommendations of the 2nd respondent, the 1st respondent has not taken any action to amend the service rules, providing for promotion channel from the posts of Head Vigilance Guards and Jamedars to the post of Security Inspectors, the fact remains, as is evident from the counters of 1st and 2nd respondent, the 1st respondent vide orders passed in Memo No. 12222/Endts.III/A1/97-3, dated 01.01.1998, is said to have negated the proposal sent by the 2nd respondent for upgradation of the post of

Vigilance and Security Inspectors as Security Inspectors.

Even though the petitioners have not challenged this Memo by way of any amendment petition, yet this Court in exercise of the discretionary powers vested in it under Article 226 of the Constitution of India, would like to consider its legality in this writ petition. The only ground on which the 1st respondent has negated the proposal of the 2nd respondent, as is evident from the stand taken by the 1st respondent is that there was no justification for upgradation of the post of except for the purpose of creation of promotional avenues only. The ground on which the 1st respondent has negated the proposal of the 2nd respondent, appears to be without any basis and untenable.

A perusal of the contents of the letter dated 17.09.1995, addressed by the 2nd respondent to the 1st respondent, which reflects the hierarchy of the Vigilance and Security Department, would disclose that the posts of Head Vigilance Guard and Jamedar, are the bottom posts. They are of the same cadre and carry equal pay and scale. Above the said posts, are the posts of Vigilance and Security Inspector, Assistant Vigilance and Security Officers, Grades-III and II and Vigilance and Security Officer. As Head Vigilance Guards and Jamedars, are not entitled to be promoted as Vigilance Inspectors, Dr. S. Subramanian, Advisor, Security in TTD, has suggested that three posts of Vigilance Inspectors, be converted as Assistant Security Officers duly providing a channel of promotion from the cadre of Head Vigilance Guards and Jamedars. As Assistant Security Officers, are placed above the Vigilance and Security Inspectors, it was proposed to convert three posts of Vigilance and Security Inspectors, which are below the posts of Assistant Security Inspectors, as Security Inspectors. Therefore, the 2nd respondent requested the 1st respondent to amend the service rules for recruitment to the post of Security Inspector by promotion from the cadre

of Head Vigilance Guards and Jamedars by following the system of seniority and merit. However, the 1st respondent, without having regard to the expert's advice, has mechanically negated the request of the 2nd respondent.

The 2nd respondent by seeking conversion of three posts of Vigilance and Security Inspectors as Security Inspectors, has not sought to create any new posts. The 2nd respondent merely sought to provide a promotion channel to the petitioners, who are working as Head Vigilance Guards and Jamedars for the last more than 15 years, and more so when they reached stagnation in the posts in which they are working. Stagnation leads to discontentment among employees and kills their desire to work properly, and certainly it may happen in the case of the petitioners, if they are made to work in the present posts without any promotion from the post in which they were appointed till they retire from service. The petitioners, having been appointed as Head Vigilance Guards and Jamedars, by way of direct recruitment, are working as such since the date of their appointment. The hierarchy of the Vigilance and Security Department in the TTD shows that they are filling up the posts of Vigilance and Security Inspectors, three of which are sought to be converted as Security Inspectors, by lean from service from the A.P. Police Service. The hierarchy indicates that there is a permanent need of the officers in the cadre of Vigilance and Security Inspectors. When the 2nd respondent sought to make a promotion channel providing for promotion to the petitioners as Security Inspectors, it was not proper for the 1st respondent to reject the same, and more so when the said posts are sought to be filled by deputation. The petitioners, admittedly not seeking any upgradation of their posts, they are merely seeking a channel of promotion, which the 2nd respondent

sought to create by conversion of three posts of Vigilance and Security Inspectors, as Security Inspectors and provide a channel for promotion to the said posts.

In **Raghunath Pd. Singh v. Secy., Home (Police) Dept., Govt. of Bihar**, the apex Court deprecated the absence of promotional aspects in the following words:

Reasonable promotional opportunities should be available in every wing of public service. That generate efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly.

In **V. Jagannadha Rao. v. State of A.P.**, the apex Court to avoid discontentment among employees, indicated the need to create promotional avenues for every service, which would be in the interest of the administration, in the following manner:

... It would be in the interest of the administration to have a channel of promotion for every service, so as to avoid stagnation at a particular level, subject however to the condition that the incumbents of a service are otherwise qualified to shoulder the responsibilities of the higher promotional post. The appropriate authority of the Government, therefore, should bear this in mind and consider the feasibility and desirability of continuing the supernumerary posts already created in the Boilers and Factories Department on a permanent basis, so that the employees from the lower echelon in the said Department have a promotional channel or, to make suitable promotional avenue at least upto some level, so that there would not be any discontentment amongst the employees in the concerned Department.

In **State of Tripura v. K.K. Roy**^[9], the apex Court held that promotion being a condition of service, avenues have to be provided therefor.

From the above, it is clear that to achieve excellence, promotional avenues are a must, else the desire of the employees to work to the satisfaction, would be killed. The 1st respondent, as can be seen from his counter, has negatived the request of the 2nd respondent vide his Memo No. 12222/Endts.III/A1/97-3, dated 01.01.1998, on the ground that there was no justification for upgradation of the post except for the purpose of creation of promotional avenues. As stated above, the 2nd

respondent did not seek to upgrade the post, but sought to create a promotion channel by conversion of three posts of Vigilance and Security Inspects as Security Inspectors, for providing a promotional channel from the cadre of Head Vigilance Guards and Jamedars, and more so when there was no promotional channel provided. Since the 1st respondent has mechanically negated the request of the 2nd respondent to amend the service rules providing for promotion channel from the posts of Head Vigilance Guards and Jamedars to the posts of Security Inspector, upon conversion of the posts of Vigilance and Security Inspector, I am of the considered opinion that the orders passed by the 1st respondent in Memo No. 12222/Endts.III/A1/97-3, dated 01.01.1998, cannot be sustained.

In the result, the writ petition is allowed. The orders passed by the 1st respondent in Memo No. 12222/Endts.III/A1/97-3, dated 01.01.1998, though not challenged in this writ petition, are set aside. The 1st respondent, is directed to review the proposal sent by the 2nd respondent for amending the service rules providing for promotional channel from the posts Head Vigilance Guards and Jamedars to the posts of Security Inspectors, converted from the posts of the Vigilance and Security Inspectors, in the light of the report of the Security Advisor of TTD, and the need to provide promotional aspects in every cadre/service, as held by the apex Courts, in the judgments referred to above, and pass appropriate orders thereon, in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs.

N.V. RAMANA, J.

Dated: 30.08.2006

KSR/ISL

[\[1\]](#) AIR 1988 SC 1033
[\[2\]](#) AIR 1989 SC 139
[\[3\]](#) AIR 1992 SC 780
[\[4\]](#) AIR 1993 SC 1605
[\[5\]](#) AIR 1996 SC 2744
[\[6\]](#) AIR 2001 SC 308
[\[7\]](#) AIR 2001 SC 595
[\[8\]](#) AIR 2002 SC 77
[\[9\]](#) (2004) 9 SCC 65